

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DEMETRIUS BROWNRIDGE,
Plaintiff,
v.
WARDEN HUTCHINGS, *et al.*,
Defendants.

Case No. 2:23-CV-01890-MMD-EJY

ORDER

Pending before the Court is Plaintiff Demetrius Brownridge's application to proceed *in forma pauperis* ("IFP"). ECF No. 5.

On July 2, 2024, the Court issued a Screening Order permitting Plaintiff to proceed on two claims. ECF No. 6. The Order also dismissed some claims with leave to amend and other claims with prejudice. *Id.* The Court deferred ruling on Plaintiff's IFP application. *Id.* at 10. Plaintiff was given until July 29, 2024 to file an amended complaint that cured deficiencies in the original Complaint. *Id.* at 11. The Court stated that if Plaintiff did not file an amended complaint, this matter would proceed against Warden Hutchings only on the Eighth Amendment conditions of confinement claims based on the unsanitary conditions, lack of cleaning supplies, and lack of heating in Unit 7. *Id.* As of the date of this Order, Plaintiff has not filed an amended complaint. Thus, this action proceeds against Warden Hutchings only.

Accordingly, IT IS HEREBY ORDERED that this action will proceed against Warden Hutchings on the Eighth Amendment conditions of confinement claims based on the unsanitary conditions, lack of cleaning supplies, and lack of heating in Unit 7.

IT IS FURTHER ORDERED that given the nature of the claims the Court has permitted to proceed, this action is stayed for 90 days to provide the parties with an opportunity to settle their dispute before the Court determines whether to grant Plaintiff's IFP application, the \$350 filing fee is paid, an answer is filed, or the discovery process begins.

1 IT IS FURTHER ORDERED that during this 90-day stay period, and until the Court lifts the
2 stay, no other pleadings or papers may be filed in this case, and the parties will not engage in any
3 discovery, nor are the parties required to respond to any paper filed in violation of the stay unless
4 specifically ordered by the Court to do so.

5 IT IS FURTHER ORDERED that the Court will refer this case to the Court's Inmate Early
6 Mediation Program and enter a subsequent order.

7 IT IS FURTHER ORDERED that on or before 90 days from the date this Order is entered
8 on the docket, the Office of the Attorney General **must** file the report form attached to this Order
9 regarding the results of the 90-day stay, even if a stipulation for dismissal is entered prior to the end
10 of the 90-day stay. If the parties proceed with this action, the Court will then issue an order setting
11 a date for Defendants to file an answer or other response. Following the filing of an answer, the
12 Court will issue a scheduling order setting discovery and dispositive motion deadlines.

13 IT IS FURTHER ORDERED that "settlement" may or may not include payment of money
14 damages. It also may or may not include an agreement to resolve Plaintiff's issues differently. A
15 compromise agreement is one in which neither party is completely satisfied with the result, but both
16 have given something up and both have obtained something in return.

17 IT IS FURTHER ORDERED that if the case does not settle, the Court will determine whether
18 to grant Plaintiff's IFP application. Plaintiff will be required to pay the full \$350.00 statutory filing
19 fee for a civil action regardless of whether the Court grants his IFP application. This fee cannot be
20 waived, and the fee cannot be refunded once the Court enters an order granting Plaintiff's IFP
21 application. If Plaintiff is allowed to proceed IFP, the fee will be paid in installments from his prison
22 trust account. *See* 28 U.S.C. § 1915(b). If Plaintiff is not allowed to proceed IFP, the full \$350
23 statutory filing fee for a civil action plus the \$52 administrative filing fee, for a total of \$402, will be
24 due immediately.

25 IT IS FURTHER ORDERED that if any party seeks to have this case excluded from the
26 inmate mediation program, that party will file a "motion to exclude case from mediation" no later
27 than 21 days prior to the date set for mediation. The responding party will have 7 days to file a
28

1 response. No reply will be filed. Thereafter, the Court will issue an order, set the matter for hearing,
2 or both.

3 IT IS FURTHER ORDERED that if Plaintiff needs an interpreter to participate in the
4 mediation program, Plaintiff **must** file a notice identifying the interpretation language and the need
5 for the interpreter within 30 days from the date of this Order.

6 IT IS FURTHER ORDERED that the Clerk of Court is directed to add the Nevada
7 Department of Corrections to the docket as an Interested Party and electronically provide a copy of
8 this Order and copies of all items previously filed in this case by regenerating the Notices of
9 Electronic Filing on the Office of the Attorney General of the State of Nevada by adding the Attorney
10 General of the State of Nevada as an interested party on the docket. This does not indicate acceptance
11 of service.

12 IT IS FURTHER ORDERED that the Attorney General's Office **must** advise the Court
13 within 21 days of the date of entry of this Order whether it will enter a limited notice of appearance
14 on behalf of Defendants for the purpose of settlement. No defenses or objections, including lack of
15 service, will be waived as a result of the filing of the limited notice of appearance.

16 DATED this 22nd day of August 2024.

17 
18 ELAYNA J. YOUCHAH
19 UNITED STATES MAGISTRATE JUDGE
20
21
22
23
24
25
26
27
28

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 DEMETRIUS BROWNRIDGE,

4 Plaintiff

5 v.

6 WARDEN HUTCHINGS, *et al.*,

7 Defendants.

Case No. 2:23-CV-01890-MMD-EJY

REPORT OF ATTORNEY GENERAL RE:
RESULTS OF 90-DAY STAY

8
9 **NOTE: ONLY THE OFFICE OF THE ATTORNEY GENERAL SHALL FILE THIS**
10 **FORM. THE INMATE PLAINTIFF SHALL NOT FILE THIS FORM**

11 On _____ [*the date of the issuance of the screening order*], the Court issued its
12 screening order stating that it had conducted its screening pursuant to 28 U.S.C. § 1915A, and that
13 certain specified claims in this case would proceed. The Court ordered the Office of the Attorney
14 General of the State of Nevada to file a report ninety (90) days after the date of the entry of the
15 Court's screening order to indicate the status of the case at the end of the 90-day stay. By filing this
16 form, the Office of the Attorney General hereby complies.

17 **REPORT FORM**

18 [Identify which of the following two situations (identified in bold type) describes the case, and
follow the instructions corresponding to the proper statement.]

19 **Situation One: Mediated Case:** The case was assigned to mediation by a court-appointed
20 mediator during the 90-day stay. [If this statement is accurate, check **ONE** of the six statements
below and fill in any additional information as required, then proceed to the signature block.]

21 _____ A mediation session with a court-appointed mediator was held on _____
22 [*enter date*], and as of this date, the parties have reached a settlement (*even if*
23 *paperwork to memorialize the settlement remains to be completed*). (*If this box is*
24 *checked, the parties are on notice that they must SEPARATELY file either a*
contemporaneous stipulation of dismissal or a motion requesting that the Court
continue the stay in the case until a specified date upon which they will file a
stipulation of dismissal.)

25 _____ A mediation session with a court-appointed mediator was held on _____
26 [*enter date*], and as of this date, the parties have not reached a
27 settlement. The Office of the Attorney General therefore informs the Court of its
28 intent to proceed with this action.

1 _____ No mediation session with a court-appointed mediator was held during the 90-day
 2 stay, but the parties have nevertheless settled the case. *(If this box is checked, the*
 3 *parties are on notice that they must SEPARATELY file a contemporaneous stipulation*
of dismissal or a motion requesting that the Court continue the stay in this case until
a specified date upon which they will file a stipulation of dismissal.)

4 _____ No mediation session with a court-appointed mediator was held during the 90-day
 stay, but one is currently scheduled for _____ [enter date].

5 _____ No mediation session with a court-appointed mediator was held during the 90-day
 6 stay, and as of this date, no date certain has been scheduled for such a session.

7 _____ None of the above five statements describes the status of this case.
 8 Contemporaneously with the filing of this report, the Office of the Attorney General
 of the State of Nevada is filing a separate document detailing the status of this case.

9 * * * * *

10 **Situation Two: Informal Settlement Discussions Case:** The case was NOT assigned to
 11 **mediation with a court-appointed mediator during the 90-day stay; rather, the parties were**
 12 **encouraged to engage in informal settlement negotiations.** [If this statement is accurate, check
ONE of the four statements below and fill in any additional information as required, then proceed
 to the signature block.]

13 _____ The parties engaged in settlement discussions and as of this date, the parties have
 14 reached a settlement *(even if the paperwork to memorialize the settlement remains to*
 15 *be completed)*. *(If this box is checked, the parties are on notice that they must*
 16 *SEPARATELY file either a contemporaneous stipulation of dismissal or a motion*
requesting that the Court continue the stay in this case until a specified date upon
which they will file a stipulation of dismissal.)

17 _____ The parties engaged in settlement discussions and as of this date, the parties have not
 18 reached a settlement. The Office of the Attorney General therefore informs the Court
 of its intent to proceed with this action.

19 _____ The parties have not engaged in settlement discussions and as of this date, the parties
 20 have not reached a settlement. The Office of the Attorney General therefore informs
 the Court of its intent to proceed with this action.

21 _____ None of the above three statements fully describes the status of this case.
 22 Contemporaneously with the filing of this report, the Office of the Attorney General
 of the State of Nevada is filing a separate document detailing the status of this case.

23 Submitted this _____ day of _____, _____

24 Attorney Name: _____
 _____ Print

 Signature

25 Address: _____
 26 _____

Phone: _____

27 Email: _____